



FACT SHEET

Long-Term Services and Supports Provisions in Health Reform

Background:

Currently, there are approximately 10 million Americans in need of long-term services and supports (LTSS), and that number is expected to increase to nearly 15 million by the year 2020. Since private long-term care insurance coverage is limited, many people pay out of pocket and rely on unpaid family and friends to help provide support. Those with the most significant needs sometimes have no other alternative but to “spend down” their assets to qualify for Medicaid; they often remain impoverished for life to continue receiving support. With Medicaid already overburdened, this equation is not ideal and it is not sustainable.

The federal/state Medicaid program continues to be the major funding source for coverage of long term services and supports and continues to have an institutional bias. According to a study by Stephen Kaye published in a 2009 *Health Affairs* article, states that invested in Medicaid home and community-based services (HCBS), over a relatively short period of time, were able to slow their rate of Medicaid spending on long-term services. While the developmental disabilities service system has effectively used the Home and Community Based Services (HCBS) waiver to shift funding toward the community, this effort varies considerably among states. In addition, there are extensive waiting lists within states for community-based services and supports.

The **Patient Protection and Affordable Health Care Act** (P.L. 111-148) signed into law by President Obama and the **Health Care and Education Reconciliation Act of 2010** (H.R. 4872) which is awaiting signature include multiple provisions related to improving LTSS for people with disabilities of all ages. These provisions, described below, will not only increase independence, choice, and the ability to receive services in the community, but they also have the potential to reduce Medicaid costs and save states money over time.

Community Living Assistance Services and Supports (CLASS) Act

The CLASS Act will create a new national long-term care insurance program to help adults who have or who develop functional impairments to remain independent, employed, and engaged in their community. Financed by voluntary payroll deductions, enrollment in the CLASS program will be available to full and part-time working adults. It does not allow medical underwriting and exclusions based on pre-existing conditions (as found in private insurance plans). After a five year vesting period and a determination of eligibility based on functional need for assistance in Activities of Daily Living (ADLs), a recipient will have access to a cash benefit averaging \$75/day with no lifetime limit (the actual cash benefit will depend on the person’s level of impairment). Counseling services will also be available to every beneficiary. The program is not means-tested – there will be no limits on individual income or assets and, if possible, the individual could continue to work. The CLASS program seeks to empower consumers: its flexible benefit could be utilized to meet an individual’s particular needs, such as paying for personal assistance services or assistive devices or equipment.

The new law includes safeguards that ensure that no taxpayer dollars will be used and that the program will be solvent for at least 75 years, and includes language that allows the Secretary of HHS to provide additional safeguards as well. The Congressional Budget Office found that the CLASS program will also result in Medicaid savings over time. The CLASS program will assist people with disabilities and older Americans to maintain functional lives in their homes and communities.

Improvements to Medicaid Home and Community-Based Services (HCBS)

There are additional provisions in the health reform law that will increase access to HCBS. These provisions complement the CLASS program and each other, and are critically important elements of health care reform:

- **Community First Choice Option:** The Community First Choice Option is a new Medicaid state plan option for comprehensive HCBS for people with disabilities who are eligible for an institutional level of care. States that choose to provide services under the option will be required to make home and community-based attendant services and supports available to eligible individuals to assist them with activities of daily living, instrumental activities of daily living, and health-related tasks through hands-on assistance, supervision, or cueing. These states will be eligible for an additional 6 percent federal match rate for these services.
- **Removal of Barriers to Providing HCBS in the States:** These reforms remove certain barriers to providing Medicaid HCBS, primarily by making it easier for states to use a flexible state plan amendment option that has been available under current law (Medicaid Section 1915(i)). Specific changes include:
 - income eligibility criteria are aligned with other HCBS programs by permitting waiver-eligible enrollees to qualify for the option with incomes up to 300% of the federal Supplemental Security Income (SSI) level;
 - states will have greater flexibility to target certain populations in need, in part by waiving comparability requirements; and
 - limitations on the type and scope of services available have been removed.
- **State Balancing Incentives Program:** This program will temporarily increase the federal Medicaid matching rate for HCBS for states that undertake structural reforms to increase diversion from institutions and expand the number of people receiving HCBS. States which spend less than 50 percent of total LTSS funds on HCBS services will qualify for a 5 percent or 2 percent increase in federal match for HCBS services. Within 6 months, a selected state will need to adopt: a single point of entry system, case management services, a standardized assessment instrument for determining eligibility, a system for monitoring capacity, and a data collection infrastructure.
- **Spousal Impoverishment Protections for HCBS Beneficiaries:** Medicaid permits nursing home residents' spouses to keep one-half of the couple's assets, up to a ceiling. The maximum monthly income allowance is about \$2,700, while asset allowances range from about \$22,000 to \$110,000. This provision will apply those same rules to spouses of individuals receiving HCBS, helping to avoid spousal bankruptcy, splitting families apart, providing incentives for divorce, lawsuits, and other serious conflicts.
- **Additional Provisions:** The law extends the **Money Follows the Person Rebalancing Demonstration** through 2016 and expands funding for **Aging and Disability Resource Centers (ADRCs)**. The law also establishes a dedicated office to improve coordination of benefits for **persons eligible for both Medicare and Medicaid** (dual eligibles).

Direct Support Workers

The new law authorizes funding over 3 years for new training for direct care workers providing long term services and supports and creates a demonstration project to develop training and certification programs for personal or home care aids.

Action Taken by Congress and the Administration

Throughout the past year, enactment of comprehensive health care reform has been high on the Congressional agenda and was completed within the last month. The **Patient Protection and Affordable Health Care Act** (P.L. 111-148) was signed into law by President Obama on March 23 and the **Health Care and Education Reconciliation Act of 2010** (H.R. 4872) is awaiting signature as this goes to press.

Recommendations

Members of Congress should work with the Administration to ensure proper implementation of the new health reform laws. Congress should exercise its oversight authority to ensure that the new health reform laws operate as intended for people with disabilities.

For more information, please contact The Arc and United Cerebral Palsy Disability Policy Collaboration (202) 783-2229, Association of University Centers on Disability (301) 588-8252, American Association on Intellectual and Developmental Disabilities (202) 387-1968, National Association of Councils on Developmental Disabilities (202) 506-5813 or the Self Advocates Becoming Empowered (802) 760-8856.